

Attorney Docket No.: 2002B133/2

REMARKS

This reply is in response to the Office Action dated March 13, 2006. Claims 1, 2 and 4-52 are pending in the application and stand rejected. Entry of the foregoing amendment and reconsideration of the claims is respectfully requested.

Claims 1, 2, 4-9, 11-20, 37, 38, 40, 41 and 43-52 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Erickson et al.* (US 6,426,394) ("Erickson"). Applicant has amended base claim 1 to include the limitations of claim 10, obviating the rejection with regard to claim 1 and those dependent therefrom. Applicant has also amended base claim 18 to more clearly recite that the metallocene catalyst is supported, thus obviating the rejection with regard to claim 18 and those dependent therefrom. Further, Applicant has amended base claim 37 to more clearly recite aspects of the second vessel. Particularly, claim 37 has been amended to add the limitation of "the second vessel having a substantially conical portion." As such, the rejection is obviated with regard to claim 37 and those dependent therefrom. At the very least, Erickson does not teach, show or suggest supported catalysts, as required in all the claims. Also, Erickson does not teach, show or suggest passing a catalyst slurry from a first vessel to a second vessel having a substantially conical portion, as required in claim 37 and those dependent therefrom. Accordingly, withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 37, 38 and 40-52 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Shamshoum et al.* (US 6,239,058) ("Shamshoum"). As mentioned above, Applicant has amended base claim 37 to add the limitation of "the second vessel having a substantially conical portion," obviating the rejection. At the very least, Shamshoum does not teach, show or suggest passing a catalyst slurry from a first vessel to a second vessel having a substantially conical portion, as required in claim 37 and those dependent therefrom. Accordingly, withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 21-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Erickson in view of *Brady et al.* (US 5,317,036) ("Brady"). Applicant respectfully traverses the rejection on grounds that the Examiner has not established a *prima facie* case of obviousness. To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. MPEP § 2143.03; see, *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Further, the teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not in the applicants' disclosure. See, M.P.E.P. § 2143, citing *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). Still further, the examiner must *particularly* identify any

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suggestion, teaching or motivation from *within* the references to combine the references (emphasis added). See, *In Re Dembiczak*, 50 USPQ2d 1614 (Fed. Cir. 1999). The mere recitation of a combination of references does not amount to particularly identifying a suggestion, teaching, or a motivation to combine the references.

Here, the Examiner states that Erickson discloses in Example 1, "a method of mixing a slurry of metallocene in mineral oil with a cocatalyst, then combining the mixture with a transport liquid comprising mineral oil, followed by injection of the mixture into a gas phase reactor for polymerization of propylene." The Examiner further states, "Patentee has stated that the reactor shown in US 5,317,036 was used, with the reactor shown in Figure 1 [sic] clearly showing a conical vessel." However, the Examiner admits that Erickson does not describe or disclose how the metallocene in oil was prepared and transferred to the reactor. Yet, the Examiner asserts that it would have been obvious to prepare Erickson's metallocene in oil in Brady's tank 50 and/or obvious to make Erickson's metallocene in oil in another vessel then transfer to Brady's tank 50 for use in the polymerization method. The Examiner, therefore, concludes that "[t]hose of ordinary skill in the art would view either method as equally likely and equally effective, and therefore said skilled worker would be motivated to mix the catalyst in a first vessel, then transfer it to tank 50 for use in the polymerization method." Regarding such "first vessel," the Examiner states, "Said vessel could be of any arbitrary shape, including the conical shape in the '036 reactor system."

The Examiner's assertions are nothing more than reconstruction of the claimed invention through impermissible hindsight. One of ordinary skill in the art reading Erickson could not have reached the claimed invention based on the text of Erickson. The passage in Erickson which the Examiner references actually states, "Propylene was polymerized in a gas phase polymerization reactor in a method similar to that described in Brady, U.S. Pat. No. 5,317,036." See, Erickson at col. 13, ll. 15-17. Not having the benefit of the presently claimed invention in front of one of ordinary skill in the art, that skilled artisan would never have thought said passage discloses the use of the reactor system of Figure 1 in Brady with the catalyst tank 50 and the cocatalyst tank 60. That passage merely teaches or suggests that the propylene of Erickson was polymerized "in a method similar to that described in Brady," as the plain language of the text reads, not the equipment described in Brady as the Examiner asserts. The Examiner's read of Erickson is a stretch beyond the four corners of the document itself. Erickson does not teach, show, or suggest using its catalyst with the catalyst supply tanks 50, 60 shown in Brady. Therefore, a combination of Erickson and Brady does not teach, show, or suggest the claimed invention. As such, withdrawal of the rejection and allowance of the claims is respectfully requested.

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Furthermore, the foregoing passage (Erickson at col. 13, ll. 15-17) cited by the Examiner would not have suggested passing the catalyst slurry from a first vessel to a second vessel, as required in every claim. Referring to Figure 1 of Brady, the contents of tank 50 do not pass into tank 60 and *vice versa*. Both tanks 50, 60 empty to the mixing tee 62 and are then passed to the reactor via line 48. For at least this reason, a combination of Erickson and Brady does not teach, show, or suggest passing the catalyst slurry from a first vessel to a second vessel, as required in every claim. Therefore, withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 1, 2 and 5-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shamshoum in view of Brady. The Examiner states that Shamshoum "discloses a catalyst delivery and polymerization system in Figure 1... comprising tubes for delivering and mixing mineral oil (9), cocatalyst (11 and 12) and catalyst (14), followed by delivery to a propylene polymerization reactor." The Examiner further states that "one of ordinary skill in the art would immediately envisage a mixing/feed reservoir vessel (of any description prior to delivery through tube (14))." The Examiner goes on to state that while said one of ordinary skill is envisaging the mixing/feed reservoir vessel said skilled artisan would look to Brady.

Applicant respectfully traverses the rejection on grounds that the Examiner has not established a *prima facie* case of obviousness. Particularly, the Examiner has not identified any suggestion, teaching or motivation from within the references themselves to combine the references. The Examiner has simply assumed that one of ordinary skill in the art would "envisage a mixing/feed reservoir vessel (of any description prior to delivery through tube (14))," and the Examiner has provided no support from the references themselves to support such assumption. Insofar as the record shows, if it is true that "one of ordinary skill in the art would envisage a mixing/feed reservoir vessel (of any description prior to delivery through tube (14))," it has been gleaned from the Applicant's own specification, which is nothing more than impermissible hindsight. Therefore, withdrawal of the rejection and allowance of the claims is respectfully requested.

Applicant further traverses the rejection on grounds that a combination of Shamshoum and Brady does not teach, show, or suggest the claimed invention. At the very least, a combination of the references does not teach, show or suggest passing the catalyst slurry from a first vessel to a second vessel, as required in every claim. Shamshoum discloses adding a mineral oil (carrier fluid) to a mixing line 8, adding a cocatalyst (TIBA1) to the mixing line 8, and then adding a catalyst to the line 8. That carrier fluid containing the catalyst components is supplied to a prepolymerization reactor 16 where the catalyst components react with propylene to form a prepolymer prior to being transferred to the main loop reactor 2. *See*, Shamshoum at col. 10, ll. 21-39. Conversely, Brady discloses a

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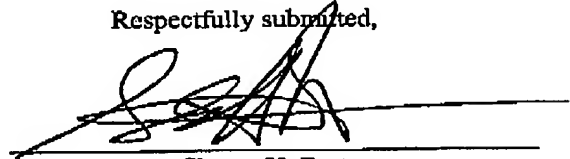
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catalyst tank 50 and a cocatalyst tank 60. Yet, the contents of tank 50 do not pass into tank 60 and *vice versa*. Both tanks 50, 60 empty to the mixing tee 62 and are then passed to the reactor via line 48. Therefore, a combination of Shamshoum and Brady does not teach, show or suggest passing the catalyst slurry from a first vessel to a second vessel, as required in every claim. Withdrawal of the rejection and allowance of the claims is respectfully requested.

Having addressed all issues set out in the office action, Applicant respectfully submits that the pending claims are now in condition for allowance. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been addressed to the Examiner's satisfaction. If necessary to affect a timely response, this paper should be considered a Petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency or credit any overpayment to Deposit Account No. 05-1712 (Docket # 2002B133/2).

Respectfully submitted,



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